IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 7519 of 2004

Shetkari Shikshan Prasarak
Mandal ..Petitioner

vs.

1. The State of Maharashtra
and others ..Respondents.

Shri A.M.Kulkarni for petitioner
Shri R.D.Rane Addl.G.P. for respondent nos. 1 to 3

**CORAM: A.P.SHAH**
**S.U.KAMDAR JJ.**
**10th Setember, 2004**

**P.C.**

1. Heard Advocates.

2. Learned A.G.P. waives service on behalf of respondent nos. 1 to 3. Respondent no.4 is served.

3. It appears that total seats available with the petitioner Institutioln for B.Ed.course are 80. Out of which 75 are minority seats i.e. 60 seats which include 20% management quota i.e. 16 seats. 25% Govt. seats and 20% management seats are already filled. Now balance 44 seats are available for the petitioner for minority students out of which 28 seats are filled by admitting Christian students who have passed C.E.T. of Association of

Colleges . The only issue is about the manner of filling balance 16 seats.

4. Our attention is invited to the observations of the Supreme Court in Islamic Academy of Education and another Vs. State of Karnataka and others, 2003(6) SCC 697:

> It must be clarified that a minority professional college can admit in their management quota, a student of their own community/language in preference to a student of another community even though that other student is more meritorious. However, whilst selecting/admitting students of their community/language the inter se merit of those students cannot be ignored. In other words, whilst selecting/admitting students of their own community/language they cannot ignore the inter se merit amongst students of their community/language. Admission, even of members of their community/language, must strictly be on the basis of merit except that in case of their own students it must be merit interse those students only. Further if the seats cannot be filled up from members of their community/language,

then the other students can be admitted only on the basis of merit based on a common entrance test conducted by government agencies.

5. In view of the law laid down in Islamic Academy's case, the petitioner is permitted to fill in the remaining balance 16 seats on inter se merit as follows:

i) Christian minority students who have passed C.E.T. conducted by the Association of Colleges or State of Maharashtra.

ii) In case any seats are left after admitting the students in category (i) above, the remaining seats may be filled in from non minority i.e. open category students who have passed CET conducted by the State of Maharashtra; and

iii) Non minority i.e.open category students who have passed C.E.T. conducted by the Association of Colleges.

6. Writ Petition is disposed of accordingly.